

**State of Michigan  
Department of Environmental Quality  
Water Resources Division**

**PUBLIC NOTICE**

**PROPOSED GENERAL PERMIT CATEGORIES FOR  
ACTIVITIES IN WETLANDS, INLAND LAKES, STREAMS,  
AND THE GREAT LAKES**

December 30, 2013

Pursuant to Part 301, Inland Lakes and Streams, Part 303, Wetlands Protection, and Part 325, Great Lakes Submerged Lands, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, the Department of Environmental Quality's Water Resources Division is proposing adding a new category to the existing General Permit (GP) categories. These categories are for activities that are similar in nature, will cause only minimal adverse effects on the environment when performed separately, and will have only minimal cumulative adverse effects on the environment. The intent of these categories is to allow better coordination between applicable statutes and to provide clarity on the requirements that must be met for each category. Permit applications made for these types of activities may be processed in an accelerated manner without the issuance of an individual public notice or public hearing. GP categories are issued for up to a five-year period. The purpose of this public notice is to provide an opportunity for public review and comment to proposed additions and changes to the existing GP categories only. The proposed GP categories can be found at [www.michigan.gov/wetlands](http://www.michigan.gov/wetlands).

Written comments on the new Proposed GP Categories should be sent to:

Amy Berry  
Department of Environmental Quality  
Water Resources Division  
P.O. Box 30458  
Lansing, MI 48909-7958  
[berry2@michigan.gov](mailto:berry2@michigan.gov)

**All comments must be received by Wednesday, February 12, 2014.**

This notice will be reviewed by federal agencies in accordance with an agreement with the United States Environmental Protection Agency, under provisions of Section 404 of the Federal Clean Water Act Amendments of 1977.



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
LANSING



DAN WYANT  
DIRECTOR

## GENERAL PERMIT CATEGORIES IN THE STATE OF MICHIGAN

December 30, 2013, DRAFT

Issued Under Part 301, Inland Lakes and Streams; Part 303, Wetlands Protection; and Part 325, Great Lakes Submerged Lands, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as Amended (NREPA)

### BACKGROUND INFORMATION

#### PURPOSE

Part 301, Part 303, and Part 325 of the NREPA authorize the Department of Environmental Quality (DEQ), Water Resources Division (WRD), to define types of regulated activities that would be expected to cause no more than minimal impacts and that can, therefore, be reviewed through an expedited permit application process. This General Permit (GP) defines categories of activities that the WRD has determined to have minimal impacts and also defines the legal authority and limitations for use of this process. These categories do not alter or replace current exemptions, but provide a mechanism for expedited processing of certain activities that are not exempt.

The purpose of this GP is to allow the WRD to evaluate permit applications for many minor activities without the delay of public noticing or site inspecting specific projects. The objective of this GP is to reduce the time and cost of the permit process for applicants proposing minor activities and to reduce the costs of administering the program while protecting aquatic resources.

Please note that this GP does not define projects that will be authorized, but only those that may be considered for accelerated processing. Applications under this GP may be issued, modified, or denied. Authorization will be issued only if it is determined that the proposed activity is in accordance with the criteria and requirements of the NREPA.

#### GENERAL PERMIT PROCEDURES

A person seeking an authorization under this GP must submit a permit application on a form supplied by the WRD at [www.michigan.gov/jointpermit](http://www.michigan.gov/jointpermit). A preliminary determination of whether an application may be processed under this GP is made by WRD staff when the application is received. Applications processed under GP procedures are typically reviewed without issuance of a public notice. However, before authorizing a specific project to proceed under a general permit, the WRD may provide public notice but will not hold a public hearing and will not typically require a site inspection. The DEQ will provide written authorization for an approved project, or will otherwise notify the applicant in writing of the decision on the application.

If at any time in the review process, it is determined that an activity in a proposed project, although within a GP category, is likely to cause more than minimal adverse effects on the environment or aquatic resources, including high value aquatic habitats, the WRD may require the application be processed as an individual permit application. The processing as an individual permit application may require the applicant to provide additional information and an additional application fee.

## REGULATORY AUTHORITY

Part 301 (Section 30105), Part 303 (Section 30312), and Part 325 (Section 32512) provide that the WRD, after notice and opportunity for a public hearing, may issue general permits on a statewide basis for a category of activities that are similar in nature, will cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effects on the environment. A general permit cannot be valid for more than 5 years.

## GENERAL CRITERIA FOR REVIEW

Part 301, Part 303, and Part 325 specify the criteria that must be met before an authorization may be issued. These general criteria, as well as the specific criteria detailed later in this GP, must be met before the WRD can issue an authorization under this GP.

Under Part 303, the WRD will issue an authorization under a GP if the requirements of the GP and the NREPA are met. However, in determining whether to issue an authorization under a general permit, the WRD shall not consider off-site alternatives to be feasible and prudent alternatives under Part 303. Compensatory wetland mitigation cannot be required as part of an authorization under this GP. Under Part 301 and Part 325, off-site alternatives can be considered. Compensatory mitigation can be provided under Part 301.

## EXCLUSIONS

The types of activities described in this document can typically be processed under GP procedures. However, some activities will not qualify for this type of processing even if the listed criteria are met. Applications will not qualify for consideration under these categories if:

- A) It is determined that the proposed project would constitute a "major discharge of dredged or fill materials" or meets other criteria subject to federal review as defined in the Memorandum of Agreement between the DEQ and the United States Environmental Protection Agency.
- B) The activity is associated with sensitive natural resources including:
  - 1. A federally designated wild and scenic river.
  - 2. A state or federally designated wilderness or environmental area.
  - 3. A federally designated marine sanctuary.
  - 4. A state or federally listed or proposed threatened or endangered species (unless alternative procedures developed by the WRD are followed to coordinate with federal agencies, or the landowner has obtained a letter of no impact from the Department of Natural Resources [DNR]).
  - 5. An identified historic or archeological area.
  - 6. An identified recharge area for drinking water aquifers.
  - 7. An identified rare or unique ecological type.
- C) Sediment testing is required per DEQ procedures and testing results have not been provided by the applicant; OR Sediment testing results per WRD procedures show that the material contains hazardous substances in excess of inert standards under Part 115, Solid Waste Management, of the NREPA.
- D) The WRD determines that a specific activity that would generally qualify under a GP category would, due to the proximity of other projects and the characteristics of the aquatic resources, cause more than minimal adverse environmental effects.
- E) The project also requires a permit under Part 301; Part 303; Part 315, Dam Safety; or Part 325 of the NREPA but does not meet one of the GP or minor project (MP) categories under those parts.
- F) The project also requires a permit under Part 323, Shorelands Protection and Management; or Part 353, Sand Dunes Protection and Management, of the NREPA.

## **NEED FOR OTHER PERMITS**

An authorization under this GP does not remove the need for other applicable local, state, or federal permits.

## **EXPIRATION DATE**

The categories in this GP modify and replace all existing GP categories under Part 301, Part 303, and Part 325 and shall expire on August 11, 2016, unless revoked or modified before that date.

Issued by: \_\_\_\_\_

William Creal, Chief  
Water Resources Division  
Department of Environmental Quality

Date: \_\_\_\_\_

## **INDEX OF GENERAL PERMIT CATEGORIES**

*WILL BE UPDATED WITH NEW PAGE NUMBERS.*

### **GENERAL PERMIT CATEGORIES**

The following activities are incorporated into this list of GP categories. The proposed activity must meet the specific criteria of a category in addition to the General Criteria, Exclusions, and General Conditions. Each category lists the statute(s) to which it applies.

#### **A. Aids to Navigation**

*NO CHANGES PROPOSED.*

#### **B. Amateur Recreational Gold Prospecting**

*NO CHANGES PROPOSED.*

#### **C. Clear Span Bridge**

*NO CHANGES PROPOSED.*

#### **D. Culvert Cleanout**

*NO CHANGES PROPOSED.*

#### **E. Culverts - Small**

*NO CHANGES PROPOSED.*

#### **F. Dry Fire Hydrant**

*NO CHANGES PROPOSED.*

#### **G. Maintenance Dredging on the Great Lakes and Section 10 Waters**

*NO CHANGES PROPOSED.*

#### **H. Maintenance of Storm Water Management Facilities: Wetlands**

*NO CHANGES PROPOSED.*

#### **I. Maintenance: Wetlands**

*NO CHANGES PROPOSED.*

#### **J. Minor Permit Revisions and Transfers**

*NO CHANGES PROPOSED.*

#### **K. Moist Soil Management for Wildlife**

*NO CHANGES PROPOSED.*

#### **L. Pipeline Safety Program Designated Time Sensitive Inspections and Repairs**

*NO CHANGES PROPOSED.*

#### **M. Public Transportation Projects**

NO CHANGES PROPOSED.

**N. Recreational Facilities: Boardwalks, Platforms, and Walkways**

NO CHANGES PROPOSED.

**O. Scientific Measuring Devices**

NO CHANGES PROPOSED.

**P. Soil Borings**

NO CHANGES PROPOSED.

**Q. Survey Activities**

NO CHANGES PROPOSED.

**R. Utility Line Activities**

NO CHANGES PROPOSED.

**S. Wetland Habitat Restoration and Enhancement**

NO CHANGES PROPOSED.

**T. Snow Road Stream Crossings for Forestry Operations**

NO CHANGES PROPOSED.

**U. Diver-Assisted Hand Removal of Invasive Species**

NO CHANGES PROPOSED.

**V. Construction and Maintenance of a Path on Great Lakes Bottomlands**

NO CHANGES PROPOSED.

**W. Mowing of Invasive Species in the St. Clair Flats**

NO CHANGES PROPOSED.

**X. Maintenance Dredging on Inland Lakes and Streams**

NO CHANGES PROPOSED.

**Y. County Drains**

HELD FOR PROPOSED CATEGORY

**Z. Blueberry Farming**

Category applies to: ☐ Part 301, Inland Lakes and Streams  
☒ Part 303, Wetlands Protection  
☐ Part 325, Great Lakes Submerged Lands

Alteration of wetland for blueberry farming that includes minimal drainage and earth moving, that meets all of the following:

- The activities cannot convert the wetland to a nonwetland, as defined under Section 30301 of Part 303.
- The wetland shall be restored by the landowner when farming activities in the wetland cease. The farmed wetland shall be placed under conservation easement protection until farming activities cease and the wetland is restored to pre-existing hydrology and to a native wetland plant community. Restoration shall include removal of tile as described below, above ground utility lines, geotextile or fabric, and any other structures or drainage modifications. Underground utilities do not need to be removed. Tile removal shall be sufficient to ensure restoration of pre-existing hydrology considering the type of soil. (Per the Natural Resources Conservation Service's Conservation Practice Standard for Michigan, the downstream end of each drain tile line should be removed as follows: 50 feet for clay, 100 feet for loam, and 150 feet for sand and organic.)
- Ditches, pads, pump houses, and secondary support facilities and structures for shipping, storage, packaging, parking, and similar purposes are not included. Roads and ponds are not included unless authorized under Section 30305 of Part 303.
- Areas of wood chip and mulch placement shall continue to meet the definition of wetland under Part 303. Earth moving shall be limited to mounding, leveling, or shallow furrows less than 12 inches in depth/height from the pre-existing soil surface. Placement of off-site fill material is not included in this category. Water management on the site shall not result in drainage of more than the top 12 inches of the soil. Any tiling or water controls installed shall be permanently set to meet this requirement.
- Tillage shall be limited to no deeper than 12 inches below the soil surface. Stump removal will be limited to grinding of stumps no deeper than 12 inches below the soil surface.
- Impacts from irrigation or electrical systems will be minimized. Any underground lines shall be limited to 12 inches in size. Clay plugs shall be placed at the wetland/upland boundary in the trench system when needed based on soil conditions. Excavated materials shall be stockpiled and used to backfill the trench area. For open trenches greater than 6 inches in width, the top 12 inches of topsoil shall be stockpiled separately to backfill the top portion of the trench. Any excavated materials that are stockpiled in the wetlands shall not remain in the wetland for more than 30 days.
- Any seeding will be comprised only of plant species that are considered native to Michigan. For the purposes of this category, native plants are those that are considered native according to the Floristic Quality Assessment for the State of Michigan.
- The edge of the field shall be a minimum of 30 feet from the top of bank of an inland lake or stream.

## **GENERAL CONDITIONS**

*NO CHANGES PROPOSED.*

## **AUTHORIZATION CONDITIONS**

*NO CHANGES PROPOSED.*